IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1043 (S/S) of 2006

Rajbar lal,
son of Sri Bhadu Lal,
resident of Village – Devar,
Post Office – Pokhari, Tehsil – Pokhari,
District – Chamoli.

……Petitioner

V e r s u s

1. State of Uttaranchal through its Secretary, Medical Health, Government of Uttaranchal, Dehradun.

2. Regional Ayurvedic and Unani Adhikari, Regional Office, Gopeshwar, District – Chamoli.

3. Medical Officer, Government Ayurvedic Hospital, Srigarh, , District – Chamoli.

……Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri Pankaj Purohit, learned counsel for the petitioners and Sri Paresh Tripathi, learned counsel for State of Uttaranchal on behalf on respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, petitioner has prayed for the following reliefs:

(a) issue a writ, order or direction in the nature of Certiorari to call for record and to quash the impugned transfer order dated 24.07.2006 passed by Medical Officer, Government Ayurvedic Hospital, Srigarh, District – Chamoli, respondent no. 3 contained in Annexure No. 3 by which the petitioner has been transferred from Srigarh to Government Ayurvedic Hospital, Bacchawban, District – Chamoli.

(b) *issue a writ, order or direction in the nature of Certiorari to call for record and to quash the order dated 10.07.2006 passed by respondents no. 2 on the basis of which the order dated 24.07.2006 was passed;*

(c) *issue a writ, order or direction in the nature of Mandamus commanding the respondents not to interfere in the functioning of the petitioner at Government Ayurvedic Hospital, Srigarh pursuant to the impugned transfer order dated 24.07.20006 / 10.07.2006 passed by respondent no. 3 and 2 respectively.*

(d) *issue any suitable writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.*

(e) *award the cost of the petition to the petitioner.*

By the impugned order dated 24.07.2006 respondent no. 3 has informed the petitioner that he has been transferred vide order dated 10.07.2006 passed by respondent no. 2 from Government Ayurvedic Hospital, Srigarh, District – Chamoli to Government Ayurvedic Hospital, Bacchuwaban, District – Chamoli.

Petitioner has challenged this transfer order on the ground that transfer order has been passed in violation of Transfer policy dated 27.06.2006 issued by State Government. No options have been invited form the petitioner as provided in the aforesaid transfer policy. No Committee was constituted for making recommendation of transfer as provided under the Transfer Policy.

Petitioner, who is Class IV employee, has just completed three years at Government Ayurvedic Hospital, Srigarh, District – Chamoli and has been transferred to remote place

which is about 120 kilometres away from the present place of posting.

Learned counsel for the petitioner has further submitted that copy of the transfer order dated 10.07.2006 has not been supplied to the petitioner and as such, he is not aware whether his transfer was made on public interest or on administrative ground.

It is well settled law that transfer policy does not have statutory force. There are only guidelines. But it is expected from the Government Officer of the State Government to follow the guidelines mentioned in the Transfer Policy as far as possible because the same has been issued by the State Government of implementation.

The petitioner is mainly aggrieved with the transfer order on the ground that it has been passed in violation of the Transfer Policy issued by State Government.

In view of the above, I deem it fit and proper to direct the petitioner to make representation before respondent no. 2, raising all his grievances, within a period of ten days from today and it is expected that respondent no. 2 that he shall take decision on the representation of the petitioner within a period of three weeks from the date of production of certified copy of this order along with representation.

With this direction the writ petition is disposed of. No order as to costs.

(M.M. Ghildiyal, J)

August 02, 2006
SKSharma